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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,957	07/20/2000	James F. Kohli	GEMS:0085	3647

7590 05/03/2004

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EXAMINER

MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/619,957	Applicant(s) KOHLI, JAMES F.	
	Examiner Robert W. Morgan	Art Unit 3626	<i>RM</i>

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: N/A.

Claim(s) objected to: N/A.

Claim(s) rejected: 1-37.

Claim(s) withdrawn from consideration: N/A.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Joseph Thomas
JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Advisory Action

Applicants argue in substance that according to MPEP 706.02 and its subsections, a clear and conspicuous statement be made of the common ownership or obligation of assignment and this statement was made in the response 11/7/03 (paper number 3) to a previous Office Action mailed 10/9/03 (paper number 2). In addition, the Applicant notes that MPEP 706.02(1)(2) states that evidence of common assignment may be provided, but is not required. It is respectfully submitted that the Examiner has reviewed and checked the assignment data of the Howards Koritzinsky (011) patent (application 09/199622) and no assignment has been recorded and no assignment papers indicating an assignment of the 011 patent (application 09/199622) was made to General Electric Company or one of its wholly owned and controlled subsidiaries at the time the instant application 09/619957 was filed. Furthermore, MPEP section 706.02(1)(2) heading II also states that in rare instances, the Examiner may have independent evidence as mentioned above that raises a material doubt as to the accuracy of applicant's representation of either (1) the common ownership of, or (2) the existence of an obligation to commonly assign, the application being examined and the applied U.S. patent or U.S. patent application publication reference. In such cases, the Examiner may explain why the accuracy of the representation is doubted, and require objective evidence of common ownership of, or the existence of an obligation to assign, the application being examined and the applied reference as of the date of invention of the application being examined. The Applicant(s) may submit, in addition to a statement regarding common ownership, the following objective evidence:

(A) Reference to assignments recorded in the U.S. Patent and Trademark Office in accordance with 37 CFR Part 3 which convey the entire rights in the applications to the same person(s) or organization(s);

(B) Copies of unrecorded assignments which convey the entire rights in the applications to the same person(s) or organization(s) are filed in each of the applications;

(C) An affidavit or declaration by the common owner is filed which states that there is common ownership and states facts which explain why the affiant or declarant believes there is common ownership, which affidavit or declaration may be signed by an official of the corporation or organization empowered to act on behalf of the corporation or organization when the common owner is a corporation or other organization; and

(D) Other evidence is submitted which establishes common ownership of the applications.

Since no evidence has been provided to establish common ownership the applied reference of Howards Koritzinsky et al. qualifies as prior art and the rejection is maintained.